HON'BLE SRI JUSTICE L.NARASIMHA REDDY

WRIT PETITION No. 14568 of 2007

Dated 09.07.2007

Between:

K.Narsamma.

...Petitioner

and

The District Registrar and another.

...Respondents

HON'BLE SRI JUSTICE L.NARASIMHA REDDY

WRIT PETITION No. 14568 of 2007

O R D E R:

The petitioner seeks a writ of Mandamus declaring the action of the respondents in not registering the document, dated 17.03.2007, presented by her. The facts pleaded by the petitioner, in this regard, are as under:

The petitioner purchased a plot of 300 square yards in Survey No.60/F, Ward No.8, Block No.3 of Kharmanghat, Saroornagar, Ranga Reddy District, through a document, dated 28.07.2005. Her vendor, in turn, is said to have purchased it, through a sale deed, dated 18.09.2000. The petitioner came to know that the property, referred to above, was gifted by one Mr.Khaza Faraaz Hussain in favour of his mother, by name Khaza Anjuman Hussain, vide document No.18970/06, dated 14.09.2006, on the file of the second respondent. The petitioner presented a deed of cancellation, dated 17.03.2007, to the second respondent, with an object of cancellation of the gift deed, dated 14.09.2006, executed by Khaza Faraaz Hussain. The document was assigned P.No.48/2007.

Placing reliance upon the Judgment rendered by a Full Bench of this Court in ***Yanala Malleshwari vs. Ananthula Sayamma***[1], the learned counsel for the petitioner submits that the responders have no

option, but to admit the cancellation deed to registration.

It is no doubt true that a Full Bench of this Court in the Judgment, referred to above, held that the registering authority has no option, but to admit the deed of cancellation to registration, without reference to the parties to the document. The said Judgment is said to have been stayed by the Hon'ble Supreme Court. However, it was rendered on the basis of the legal regime, that existed at the relevant point of time. Thereafter, the State Government amended the Rules under the Registration Act. Clause (k) was added to Rule 26, which mandates that whenever a cancellation deed is presented for registration, the registering authority must ensure that all the parties to the deed, which is sought to be cancelled, join the cancellation deed also, and it prohibits registration of the deed of cancellation, without such participation. Admittedly, the parties to the gift deed are not made parties to the deed of cancellation, much less, their consent was obtained.

Even where the cancellation of a deed is otherwise permissible, it must be done only by a person, who is a party to the document, that is sought to be cancelled. A stranger to the document cannot be permitted to cancel the same. Viewed from any angle, this Court does not find any basis to grant relief to the petitioner.

Hence, the Writ Petition is dismissed. There shall be no order as to costs.

09.07.2007

JSU

[1] 2006(6) ALD 623 (FB)